

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00855R

Parcel No. 320/03026-580-413

Michael Ericson,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 28, 2016. Michael Ericson was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Ericson is the owner of a residential property located at 2133 Walnut Street, West Des Moines. Built in 1992, his two-story home sits on a 0.172 acre lot. (Ex. A). The January 1, 2015 assessed value was set at \$212,100, allocated as \$36,100 in land value and \$176,000 in building value.

On protest to the Board of Review, Ericson claimed his assessment was not equitable as compared with assessments of other like property, and that it was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied his petition. Ericson then appealed to PAAB reasserting his two claims and noting his belief \$194,500 is the correct total assessed value for his property.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

I. Inequity Claim

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing:

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

ii. Findings of Fact

Ericson argues the assessments for other like-properties in his neighborhood all went down while his went up. He cites six properties all located towards his end of the cul-de-sac, as examples.

Comparable #	Address	2015 Total Assessed Value	Land Assessed Value	Building Assessed Value	Gross Living Area (GLA)
Subject	2133 Walnut St	\$212,100	\$36,100	\$176,000	1952
1	2117 Walnut St	\$214,300	\$36,100	\$178,200	2157
2	2101 Walnut St	\$212,600	\$36,200	\$176,400	1950
3	2049 Walnut St	\$234,300	\$36,200	\$198,100	2172
4	2048 Walnut St	\$226,700	\$36,200	\$190,500	1852
5	2033 Walnut St	\$208,100	\$36,200	\$171,900	2187
6	2001 Walnut St	\$203,100	\$36,200	\$166,900	2193

Ericson’s comparables are also 2-story homes built in 1992. (Exs. A, C-E, H, I). The properties share some similar features as compared to Ericson’s property, but each also possesses points of difference. Each property has a similar sized attached garage and the same number of baths, toilet rooms, and fireplaces. Comparable 1 is the only one with basement finish (180 square feet of average finish). Comparable 3 and 4 have

larger decks than Ericson's; 336 more square feet and 146 more square feet, respectively. The subject property also has a patio that the others do not possess, as well as a walkout basement. Each of these points of difference contributes to differences in the assessments.

Ericson also questions how building a \$500 extension on his deck causes his assessment to increase by \$12,000. Especially given he only added 133 square feet onto his deck.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified on behalf of the Board of Review. She stated the increase in the subject's 2015 assessment was due in part because of a 2014 building permit to replace/enlarge the size of the deck. But she added the assessment also increased due to an incremental change in the grade from 4+10 to a 3-10.

Rasmussen noted the grade is based on the quality of the construction and the quality of the component parts within the home. The grades range from 6 (lowest) to Executive (highest). She said a Grade 3 is indicative of good quality construction but not the best quality. Rasmussen testified that the subject's grade was raised when an appraiser from her office was on site to appraise the deck improvement. The grade was changed because the appraiser determined it was out-of-line with the other properties in the neighborhood. She noted they were all built at the same time, have similar components, and have similar quality of construction.

Ericson testified that none of his comparable properties have recently sold, noting he believes they are all original owners. Because Ericson provided no recent sales, which is necessary to support an inequity claim, we are unable to develop an assessment/sales ratio to determine whether the subject property was assessed higher proportionately than other like-properties.

II. Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must

show: 1) the assessment is excessive and 2) the subject property's correct value.

Boekeloo v. Bd. of Review of the City of Clinton, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Ericson contends the subject property's January 1, 2015 assessed value is higher than its market value, asserting its correct value should be \$194,500. (Appeal to PAAB). However, he did not provide an appraisal or a comprehensive market analysis to demonstrate what the fair market value is for his property. Moreover, none of the properties Ericson submitted sold so there is no evidence in the record to even begin to examine the market in the subject property's neighborhood. Therefore we find insufficient evidence in the record for us to make a finding of overassessment.

Conclusions of Law

To prove an inequity claim, Ericson had to show the assessor did not apply assessing methods uniformly to the subject property and other similarly situated or comparable properties; or that other similarly situated properties are assessed disproportionately. Ericson did not attempt to show the assessor is applying an assessment in a non-uniform manner under *Eagle Foods*. And, he has not submitted sufficient evidence to show the property is inequitably assessed under *Maxwell*. The *Maxwell* equity analysis typically requires comparing prior year sales (2014) to the current assessment (2015) and analyzing the ratio between the two.

To prove an overassessment claim, Ericson had to prove the correct market value of the subject property is less than its assessment value. However, we find the record lacks a supported opinion of the fair market value for the subject property, such as an appraisal, cost analysis, or other comprehensive market analysis.

Based on the foregoing, and by a preponderance of all evidence in the record, we find Ericson failed to show the subject property is inequitably assessed or over assessed.

Order

PAAB ORDERS the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015).

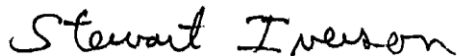
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 14th day of November, 2016.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

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